



**Town of Arlington, Massachusetts**  
Department of Planning & Community Development  
730 Massachusetts Avenue, Arlington, Massachusetts 02476

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**Public Hearing Memorandum**

*The purpose of this memorandum is to provide the Arlington Redevelopment Board and public with technical information and a planning analysis to assist with the regulatory decision-making process.*

**To:** Arlington Redevelopment Board

**From:** Jennifer Raitt, Secretary Ex Officio

**Subject:** Environmental Design Review, 1386 Massachusetts Avenue, Arlington, MA  
Docket #3610

**Date:** November 12, 2019

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**I. Docket Summary**

This is an application by Joseph Lekach for Apothca to establish a co-located marijuana retailer and a medical marijuana treatment center at 1386 Massachusetts Avenue within the B3 Village Business District. The Special Permit is to allow the Board to review and approve the proposed project, under Section 3.4, Environmental Design Review, and Section 8.3, Standards for Marijuana Uses.

The Town of Arlington adopted zoning amendments to address the sale of marijuana products to adults during Special Town Meeting on December 5, 2018. The zoning amendments created new definitions, new use categories, and standards. The standards include the buffers that are required from kindergarten through grade twelve public and private schools, public libraries, and town-owned playgrounds and recreational facilities. Additionally, the standards required a 2,000-foot distance between other recreational or medical facilities. Finally, the standards limited the number of marijuana retailers within Arlington to three.

Apothca currently operates a medical marijuana treatment center on Water Street in a multi-tenant building. In order to establish a co-located dispensary, Apothca identified and secured a lease for the building at 1386 Massachusetts Avenue where both retail and

medical sales could occur and is compliant with the standards established by the amendments adopted in December 2018.

In May, the Select Board opened a process through which the Board would determine which operators would be awarded a Host Community Agreement. Apothca applied with the intent to co-locate marijuana retail and a medical marijuana treatment center at 1386 Massachusetts Avenue. The site was deemed compliant with the zoning bylaw. The Town awarded Apothca a Host Community Agreement. Since receiving the Host Community Agreement, Apothca has started the state permitting process with the Cannabis Control Commission. In addition to seeking the EDR Special Permit from the ARB, Apothca will need to apply for an Operating Permit from the Arlington Board of Health.

Materials submitted for consideration of this application:

- Application for EDR Special Permit,
- Narrative,
- Site Plan, Landscaping Plan, and Lighting Plan dated October 7, 2019;
- Proposed Floor Plan and Elevations dated September 28, 2019;
- Original Elevations dated March 18, 1974;
- Traffic Impact Analysis dated October 7, 2019;
- Apothca Security Policies and Procedures; and,
- Memo on LEED practices and checklist dated October 15, 2019.

## II. Application of Special Permit Criteria (Arlington Zoning Bylaw, Section 3.3)

### 1. Section 3.3.3.A.

**The use requested is listed as a Special Permit in the use regulations for the applicable district or is so designated elsewhere in this Bylaw.**

The Applicant proposes a co-located marijuana retailer and a medical marijuana treatment center. Within the B3 Village Business District, marijuana uses require a Special Permit. The type of use specifically triggers the Environmental Design Review Special Permit from the Redevelopment Board per Section 3.4.2. The Board can find that this condition is met.

### 2. Section 3.3.3.B.

**The requested use is essential or desirable to the public convenience or welfare.**

Arlington, voted “yes” on the 2016 ballot question related to adult-use marijuana meaning the community supported adult-use marijuana. Although the ballot question passed statewide in 2016, the state had only established a process for reviewing and licensing medical marijuana treatment centers but not for how to process and administer new recreational facilities. While Massachusetts municipalities awaited regulations from the state, Arlington adopted a temporary moratorium in order to plan for future zoning amendments. Once regulations were

issued, Arlington formed a Marijuana Study Group to help draft zoning amendments for a Special Town Meeting in December 2018. Town Meeting adopted zoning regulations that would regulate retail marijuana establishments and medical marijuana treatment centers.

Following the desire of the community, the zoning amendments allowed both recreational and medical establishments along major corridors, in commercial centers, and accessible by public transportation. The zoning amendments placed appropriate buffers from sensitive land uses and schools on the use and limited the density of this type of use within the community.

The location of this co-located marijuana retailer and medical marijuana treatment center meets the requirements of the zoning amendments, acts on the majority vote of Arlington in 2016 regarding recreational use of marijuana, and maintains important access to medical products for those who require it. The Board can find this condition met.

**3. Section 3.3.3.C.**

**The requested use will not create undue traffic congestion or unduly impair pedestrian safety.**

The Traffic Impact Analysis provided by the Applicant seems mismatched with the likely demand that will be generated from the co-location of a marijuana retailer and medical marijuana treatment center, particularly in an area that is devoid of adult-use retailers. Further detailed discussion is provided under the Environmental Design Review criterion 4.

The analysis provided in the application materials indicates that the reconfigured parking lot and floor plan can accommodate over 100 customers per hour. However, without a better analysis of how to best utilize the project site to handle parking and customer queueing, the proposed use may create traffic congestion and impair pedestrian safety and accessibility.

The Applicant should provide a Parking and Queue Management Plan that clearly indicates how the property will be utilized and how all traffic will be managed. This also requires consultation and regular meetings with the Arlington Police Department.

**4. Section 3.3.3.D.**

**The requested use will not overload any public water, drainage or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the Town will be unduly subjected to hazards affecting health, safety, or the general welfare.**

While it appears that the existing ATM will remain on site, the proposed use is different than the current retail use on the project site. With proper security and

management as provided, the proposed use should not unduly subject the immediate area to hazards affecting health, safety, or the general welfare of the immediate area. Because no cultivation or processing will be taking place onsite, this co-located establishment will not demand more water or sewer usage than any other retail business. The Board can find this condition met.

**5. Section 3.3.3.E.**

**Any special regulations for the use as may be provided in the Bylaw are fulfilled.**

Section 8.3, Standards for Marijuana Uses, applies to this use. The project site is outside of any required buffers from sensitive land uses and is beyond 2,000 feet from any other marijuana retailer or medical marijuana treatment center. The Board can find that this condition is met.

**6. Section 3.3.3.F.**

**The requested use will not impair the integrity or character of the district or adjoining districts, nor be detrimental to the health or welfare.**

The December 2018 Special Town Meeting adopted regulations for marijuana establishments including allowing the use to be established in the B3 Village Business District. The proposed location at 1386 Massachusetts Avenue is located outside of any buffers around sensitive land uses as adopted by the Special Town Meeting as well. The Cannabis Control Commission has stringent requirements regarding the operation of marijuana establishments including modest signage and prohibiting the visibility of product from outside of the establishment and on-site consumption of product. The Board can find that this condition is met.

**7. Section 3.3.3.G.**

**The requested use will not, by its addition to a neighborhood, cause an excess of the use that could be detrimental to the character of said neighborhood.**

The use will not be in excess or detrimental to the character of the neighborhood. Additionally, should this co-located establishment be approved by the local permitting authorities and the Cannabis Control Commission, the Zoning Bylaw applies a 2,000-foot density buffer around this property. Therefore, future marijuana retailers or medical marijuana treatment centers will not be able to cluster within the Arlington Heights business districts. Beyond Arlington, the nearest operating co-located dispensaries are in Newton and Brookline. The Board can find that this condition is met.

III. Environmental Design Review Standards (Arlington Zoning Bylaw, Section 3.4)

1. EDR-1 Preservation of Landscape

**The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas.**

The existing site condition is primarily impervious. At the rear of the site, there is some vegetation growing on the slope between the rear of the parking lot and the abutters on Paul Revere Road. There is also a large retaining wall that is built into the slope. This retaining wall will remain, but some of the existing vegetation will be removed in order to reconfigure the parking lot to gain additional parking spaces. New vegetation will be planted behind and in front of the existing retaining wall. The landscaping plan lacks detail in what vegetation will be removed and what will be newly planted. The Applicant should improve the landscaping plan to include the requested details.

2. EDR-2 Relation of the Building to the Environment

**Proposed development shall be related harmoniously to the terrain and to the use, scale, and architecture of the existing buildings in the vicinity that have functional or visible relationship to the proposed buildings. The Arlington Redevelopment Board may require a modification in massing so as to reduce the effect of shadows on the abutting property in an R0, R1 or R2 district or on public open space.**

The proposed co-located marijuana retailer and medical marijuana treatment center will be established in an existing building in the Arlington Heights business district. There are no additions proposed to the existing building, although a new entry way will be installed on the front elevation. The Board can find that this condition is met.

3. EDR-3 Open Space

**All open space (landscaped and usable) shall be so designed as to add to the visual amenities of the vicinity by maximizing its visibility for persons passing by the site or overlooking it from nearby properties. The location and configuration of usable open space shall be so designed as to encourage social interaction, maximize its utility and facilitate maintenance.**

The landscaped open space requirement is 10% for this permitted use. There is no usable open space requirement for a non-residential use. The proposal will marginally improve the landscaped open space on the site from 14.4 percent to 14.6 percent. The Applicant proposes to remove existing areas of concrete and replace it with landscaping and adding plantings at the rear of the property. The Board can find that this condition is met.

**4. EDR-4 Circulation**

With respect to vehicular and pedestrian and bicycle circulation, including entrances, ramps, walkways, drives, and parking, special attention shall be given to location and number of access points to the public streets (especially in relation to existing traffic controls and mass transit facilities), width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic, access to community facilities, and arrangement of vehicle parking and bicycle parking areas, including bicycle parking spaces required by Section 6.1.12 that are safe and convenient and, insofar as practicable, do not detract from the use and enjoyment of proposed buildings and structures and the neighboring properties.

There are seven existing parking spaces on the site. The application materials indicate that the rear parking lot would be reconfigured in order to provide 12 parking spaces, which is in excess of the requirement for a retail use:

<b>Parking Requirement</b>			
<b>Use</b>	<b><u>Square Footage</u></b>	<b><u>Zoning Requirement</u></b>	<b><u>Total Parking Required</u></b>
<b>Retail</b>	<b>2,184 sf</b>	<b>1/300 sf*</b>	<b>8 spaces</b>
<b>Total Parking</b>			<b>8</b>
<b>Total Parking Proposed</b>			<b>12</b>

The application materials lack a clear description of how customer queuing and parking will be controlled at this facility for both recreational and medical customers. While a number of adult-use retailers have opened in the Greater Boston area, the location in Arlington is poised to have increased demand and attract customers from areas to the north of the community who may not want to travel south into Newton or Brookline or north to Lowell to purchase the products.

The Traffic Impact Analysis provided by the Applicant shows an increase in trips to the property in comparison to the existing use. The trip generation analysis found that there will be 23 weekday a.m. peak hour vehicles and 33 weekday p.m. peak hour vehicles. Based on reconnaissance done at other retailers in the Greater Boston area, the p.m. peak hour is described as 11 a.m. to noon and the p.m. peak hour is described as 6 p.m. to 7 p.m. Weekend daily trips are estimated as 570 trips.

While the Traffic Impact Analysis found that the daily increase of trips on Massachusetts Avenue would have a negligible impact due to the usage of this roadway, the limited off-street parking (even with the reconfiguration) appears inadequate to handle the flow of customers. The analysis also indicates that visits will be between 15 to 20 minutes allowing the parking spaces to turn over 3 to 4 times per hour and thereby able to accommodate the weekday p.m. peak hour of 33 vehicles.

The floor plan includes an interior vestibule that can be used for queuing. The Applicant estimates that 35 to 40 people can occupy the floorplate, and with an average transaction time of 15 minutes, 105 to 160 customers can be served each hour. It should be noted that only 15 people at a time can queue within the interior vestibule; the remaining 20 to 25 people would be on the sales floor. The application materials indicate that queuing would not be allowed on the public sidewalk, and would be accommodated on the private sidewalk leading toward the rear of the property. It should be noted that this also appears to be the accessible route to enter the building, and people queuing along this sidewalk may impede accessibility.

The Traffic Impact Analysis should more properly project demand. To that end, the Applicant should provide a more critical analysis of parking and queue demands:

1. The analysis indicates that most employees take public transportation; however, the Applicant should consider providing off-site parking for employees in order to fully utilize the on-site parking for customers. It should be noted that the sight lines for vehicles exiting the property are extremely limited, so frequent departures from the parking lot may cause conflicts between pedestrians and exiting vehicles.
2. Conversely, the Applicant should consider not using the on-site parking for customers and rather use the rear parking lot for employee parking and queue management.
3. The facility will be a co-located marijuana retailer and medical marijuana treatment center. The Applicant should specify if there is a separate queueing process for medical patients.
4. There may be a need to identify off-site parking for employees regardless of how the on-site parking is utilized. The Applicant should investigate options for long-term employee parking. The Applicant should develop a Transportation Demand Management that incentivizes employees to utilize public transportation to access the facility.
5. The other tenant in the building is a Bank of America ATM, and the application materials do not indicate whether Bank of America customers have use of the parking lot. The Applicant should provide this clarification.
6. Related to bicycle parking, in Section 6.1.12(A), when the difference in the number of bicycle parking spaces for a conversion is less than two spaces, the requirements do not apply. The Applicant should think critically about whether there is a viable location to install short-term bicycle parking on-site. The application materials did indicate that the employees would be allowed to bring their bicycles into the building, but there is no formal accommodation for indoor long-term bicycle parking.

The Applicant should be required to develop a Parking and Queue Management Plan that outlines how the facility will address parking and queue management once the above questions are answered. This Plan should be developed in coordination with the Arlington Police Department and the Department of Planning and Community Development. In addition to developing the Plan, there should be regular meetings to assess how parking and queueing is being handled.

**5. EDR-5 Surface Water Drainage**

**Special attention shall be given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Available Best Management Practices for the site should be employed, and include site planning to minimize impervious surface and reduce clearing and re-grading. Best Management Practices may include erosion control and stormwater treatment by means of swales, filters, plantings, roof gardens, native vegetation, and leaching catch basins. Stormwater should be treated at least minimally on the development site; that which cannot be handled on site shall be removed from all roofs, canopies, paved and pooling areas and carried away in an underground drainage system. Surface water in all paved areas shall be collected in intervals so that it will not obstruct the flow of vehicular or pedestrian traffic and will not create puddles in the paved areas. In accordance with Section 3.3.4., the Board may require from any Applicant, after consultation with the Director of Public Works, security satisfactory to the Board to insure the maintenance of all stormwater facilities such as catch basins, leaching catch basins, detention basins, swales, etc. within the site. The Board may use funds provided by such security to conduct maintenance that the Applicant fails to do. The Board may adjust in its sole discretion the amount and type of financial security such that it is satisfied that the amount is sufficient to provide for any future maintenance needs.**

The application materials indicate that the Applicant will clean existing on-site catch basins and install gas-traps and hoods to outlet pipes. There is an opportunity for the Applicant to incorporate low-impact development techniques such as installing a rain garden or similar feature in the landscaped area in the southwest corner of the property to improve the quality of stormwater runoff from the site. Additionally, there may be the opportunity to use permeable pavement in the area of the reconfigured parking spaces to contribute to the on-site infiltration of stormwater.

**6. EDR-6 Utilities Service**

**Electric, telephone, cable TV, and other such lines of equipment shall be underground. The proposed method of sanitary sewage disposal and solid waste disposal from all buildings shall be indicated.**

There will be no cultivation or processing of marijuana at this proposed facility. Existing utility systems will be reused. Solid waste of non-marijuana material will be disposed of through a private contract. Any solid waste will be stored in large tote bins



and be placed outside for removal. Solid waste containing marijuana material will be disposed at Apothca's off-site cultivation facility in compliance with the Cannabis Control Commission's regulations. The Board can find that this condition is met.

**7. EDR-7 Advertising Features**

**The size, location, design, color, texture, lighting and materials of all permanent signs and outdoor advertising structures or features shall not detract from the use and enjoyment of proposed buildings and structures and the surrounding properties.**

The application materials include a proposed wall sign that measures approximately 24.2 square feet. A wall sign of this size is in compliance with the sign regulations. The Applicant should provide more detailed drawings including illustrating the sign material, lighting, and color, as well as how the sign would be affixed to the structure and the mounting height.

**8. EDR-8 Special Features**

**Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures, and similar accessory areas and structures shall be subject to such setbacks, screen plantings or other screening methods as shall reasonably be required to prevent their being incongruous with the existing or contemplated environment and the surrounding properties.**

There are no such special features proposed for the site. Deliveries will be made from the site and non-marijuana solid waste will be stored inside until pick-up by a private waste hauler. To reduce noise from deliveries or from solid waste removal, the Board may request information on anti-idling measures and time of day restrictions to ensure that these services do not impact the surrounding residential properties.

**9. EDR-9 Safety**

**With respect to personal safety, all open and enclosed spaces shall be designed to facilitate building evacuation and maximize accessibility by fire, police and other emergency personnel and equipment. Insofar as practicable, all exterior spaces and interior public and semi-public spaces shall be so designed to minimize the fear and probability of personal harm or injury by increasing the potential surveillance by neighboring residents and passersby of any accident or attempted criminal act.**

As noted in the application materials, security is important to Apothca, and surveillance cameras will be installed within the building and on the site. Footage from these cameras will also be made available to the Arlington Police Department. Additionally, a lighting plan is provided with the application materials. The lighting plan indicates that the rear parking lot will be well-illuminated providing additional safety for employees and customers. The Applicant may want to consider modifying the choice of fixtures to reduce illumination onto abutting properties, especially the residential properties at the rear of the project site.

**10. EDR-10 Heritage**

**With respect to Arlington's heritage, removal or disruption of historic, traditional or significant uses, structures or architectural elements shall be minimized insofar as practical whether these exist on the site or on adjacent properties.**

The existing structure is not listed on the *Inventory of Historically or Architecturally Significant Properties in the Town of Arlington* nor is it under the jurisdiction of the Arlington Historical Commission. As such, the site contains no historic, traditional or significant uses, structures or architectural elements. The Board can find that this condition is met.

The property to the south of the project site at 1378 Massachusetts Avenue is under the jurisdiction of the Historical Commission. The redevelopment of the subject property will not disrupt historic, traditional, or significant uses, structures, or architectural elements that exist on that adjacent property.

**11. EDR-11 Microclimate**

**With respect to the localized climatic characteristics of a given area, any development which proposes new structures, new hard surface, ground coverage or the installation of machinery which emits heat, vapor or fumes shall endeavor to minimize insofar as practicable, any adverse impacts on light, air and water resources or on noise and temperature levels of the immediate environment.**

There are no proposed changes that will impact the microclimate. The Board can find that this condition is met.

**12. EDR-12 Sustainable Building and Site Design**

**Projects are encouraged to incorporate best practices related to sustainable sites, water efficiency, energy and atmosphere, materials and resources, and indoor environmental quality. Applicants must submit a current Green Building Council Leadership in Energy and Environmental Design (LEED) checklist, appropriate to the type of development, annotated with narrative description that indicates how the LEED performance objectives will be incorporated into the project.**

The application materials include a LEED Checklist for Existing Buildings. While the proposed project does not score highly on the LEED Checklist, the Applicant has provided a list of measures that Apothca will take to incorporate best practices related to sustainability. These include encouraging the use of public transportation by employees and customers, installing interior and exterior LED light fixtures, using Energy Star appliances, installing low-flow fixtures and replacing the water meter, as well as installing gas traps on catch basins. These are reasonable measures for an existing building. The Board can find that this condition is met.

#### IV. Conditions

##### **General**

1. The final design, sign, exterior material, landscaping, and lighting plans shall be subject to the approval of the Arlington Redevelopment Board at the time when future operators are identified. Any substantial or material deviation during construction from the approved plans and specifications is subject to the written approval of the Arlington Redevelopment Board
2. Any substantial or material deviation during construction from the approved plans and specifications is subject to the written approval of the Arlington Redevelopment Board.
3. The Board maintains continuing jurisdiction over this permit and may, after a duly advertised public hearing, attach other conditions or modify these conditions as it deems appropriate in order to protect the public interest and welfare.
4. Snow removal from all parts of the site, as well as from any abutting public sidewalks, shall be the responsibility of the owner and shall be accomplished in accordance with Town Bylaws.
5. Trash shall be picked up only on Monday through Friday between the hours of 7:00 am and 6:00 pm. All exterior trash and storage areas on the property, if any, shall be properly screened and maintained in accordance with the Town Bylaws.
6. The Applicant shall provide a statement from the Town Engineer that all proposed utility services have adequate capacity to serve the development. The Applicant shall provide evidence that a final plan for drainage and surface water removal has been reviewed and approved by the Town Engineer.
7. Upon installation of landscaping materials and other site improvements, the Applicant shall remain responsible for such materials and improvement and shall replace and repair as necessary to remain in compliance with the approved site plan.
8. Upon the issuance of the building permit the Applicant shall file with the Inspectional Services Department and the Police Department the names and telephone numbers of contact personnel who may be reached 24 hours each day during the construction period.

## **Special Conditions**

1. The Applicant shall work with the Department of Planning and Community Development and the Police Department to prepare a Parking and Queue Management Plan. During the first three months of operation, the parties shall revisit the Parking and Queue Management Plan to determine whether any adjustments must be made.
2. The Applicant shall be responsible for the cost of any police details provided by the Arlington Police Department to oversee circulation of vehicles and pedestrians.
3. Queueing shall be prohibited in the public right-of-way.
4. A Transportation Demand Management Plan shall be prepared for employees and approved by the Department of Planning and Community Development.